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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,610	07/11/2001	Takefumi Nagata	Q65279	3881
7590	02/05/2004		EXAMINER	
SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3202			CORRIELUS, JEAN M	
			ART UNIT	PAPER NUMBER
			2172	
			DATE MAILED: 02/05/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/901,610	NAGATA ET AL
	Examiner	Art Unit
	Jean M Corrielus	2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 November 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

This office action is in response to the amendment filed November 14, 2003, which claims 1-26 are presented for further examination.

Response to Arguments

Applicant's arguments filed November 14, 2003 have been fully considered but they are not persuasive. See Examiner's remark.

Drawings

1. Applicants are required to furnish the formal drawings in response this office action. No new matter may be introduced in the required drawing. Failure to timely submit a drawing will result in **ABANDONMENT** of the application.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

3. The information disclosure statement (IDS) filed on July 11, 2001 complies with the provisions of M.E.P. '609. It has been placed in the application file. The information referred to therein has been considered as to the merits. (See attached form).

Claim Rejections - 35 U.S.C. ' 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teshima US Patent no. 6,272,470 in view of Sota et al (hereinafter "Sota") US Patent no. 5,911,687.

As to claims 1, Teshima discloses the claimed client terminals installed in medical facilities and an image database server, the client terminals enabling transmission and reception of sets of medical image data together with accompanying information regarding the sets of medical image data via a public communications networks as diagnostic medical imaging which has the functionality of transferring medical imaging to the image server over the network (col.7, lines 14-17); "an image server for managing information of medical images" as image server which has the functionality of recording and transferring medical images using the network (col.6, lines 61-63); and the image database server having function of receiving the sets of medical image data and the accompanying information transmitted from the client terminals via the public communications network as a means for transferring data in response to a request made by the electronic clinical recording system (col.7, lines 5-6), storing the sets of medical image data and the accompanying information that have been received the images produced by the diagnostic medical imaging modality are transferred to the image server (col.7, lines 14-16), searching for a desired one of the sets of medical image data stored therein by using the accompanying information, and transmitting the set of medical image data (col.13, lines 5-47). Teshima does not explicitly disclose that the medical image is accompanied with data

information and inputting the conditions which enable the program to produce into intermediate codes so as to permit the link information to be changed depending on given conditions.

However, Teshima discloses that patients consultation information is medical image, wherein the each patients consultation is associated with patient information data and (col.8, line 50-col.9, line 40) and inputting the conditions which enable the program to produce into intermediate codes so as to permit the link information to be changed depending on given conditions (col.11, line 58-col.12, line 10; col.17, lines 5-32).

On the other hand, Sota discloses the use of inputting a desired search condition using a portion of the accompanying information from any one of the client terminals to the image database server, the image database server searches for the set of medical image data corresponding to the search condition and transmits the set of medical image data to the client terminal (col.8, lines 48-56).

Therefore, it would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify Teshima's system, wherein the consultation information provided therein (see Teshima's fig.3-4) would incorporate the use of inputting a desired search condition using a portion of the accompanying information from any one of the client terminals to the image database server, the image database server searches for the set of medical image data corresponding to the search condition and transmits the set of medical image data to the client terminal, in conventional manner as described by Sota (col.8, lines 48-56).

Such a modification would have provided Teshima's the enhanced capability of controlling the dynamics of the interaction between clients and servers, thereby increasing the efficiency of the system.

As to claim 2, Teshima discloses the claimed the image database server comparing password input from any one of the Client terminals with a password stored in advance, searching for the set of medical image data corresponding to the accompanying information input as the search condition from the client terminal if the passwords match up and transmitting the set of medical data to the client terminal (col.13, lines 12-16; col.15, lines 12-25).

As to claim 3, Teshima discloses the claimed wherein the accompanying information includes patient specification information (col.6, lines 60-66).

As to claims 4-6, Teshima discloses the claimed wherein the accompanying information includes a combination of facility information and patient specification information (col.6, lines 60-66).

As to claims 7-10, Teshima discloses the claimed wherein the patient specification information is encrypted by the medical facilities@ (col.12, lines 29-39; col.15, lines 30-47).

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As to claim 11, Teshima discloses the claimed the image database server having function of receiving the sets of medical image data and the accompanying information transmitted from the client terminals via the public communications network as a means for transferring data in response to a request made by the electronic clinical recording system (col.7, lines 5-6), storing the sets of medical image data and the accompanying information that have been received the images produced by the diagnostic medical imaging modality are transferred to the image server (col.7, lines 14-16), searching for a desired one of the sets of medical image data stored therein by using the accompanying information, and transmitting the set of medical image data (col.13, lines 5-47).

As to claim 12, Teshima discloses the claimed the image database server comparing password input from any one of the Client terminals with a password stored in advance, searching for the set of medical image data corresponding to the accompanying information input as the search condition from the client terminal if the passwords match up (col.13, lines 12-16; col.15, lines 12-25).

As to claim 13, Teshima discloses the claimed data transmitting the sets of the medical image data and the accompanying information regarding the sets of medical image data to the image database server via the public communication network (col.6, lines 60-66). However, Teshima does not explicitly discloses the use of transmitting the search condition for the desired one of the sets of the medical image data stored in the image database server and receiving the set of the medical image data corresponding to the search condition.

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Sota discloses the claimed transmitting the search condition for the desired one of the sets of the medical image data stored in the image database server (col.8, lines 48-56); and receiving the set of the medical image data corresponding to the search condition (col.8, lines 48-56).

Therefore, it would have been obvious to one of ordinary skill in the art of data processing, at the time the present invention was made to modify Teshima's system, wherein the consultation information provided therein (see Teshima's fig.3-4) would incorporate the use of inputting a desired search condition using a portion of the accompanying information from any one of the client terminals to the image database server, the image database server searches for the set of medical image data corresponding to the search condition and transmits the set of medical image data to the client terminal, in conventional manner as described by Sota (col.8, lines 48-56). Such a modification would have provided Teshima the enhanced capability of controlling the dynamics of the interaction between clients and servers, thereby increasing the efficiency of the system.

As to claim 14, Teshima discloses the claimed transmitting password to the image database server (col.13, lines 12-16; col.15, lines 12-25).

As to claims 15-16: the limitations of claims 15-16 have been noted in the rejection of claims 1-14 above. They are, therefore, rejected under the same rationale.

As to claim 17, Teshima discloses the claimed "a photographed body information" (col.16, lines 2-8); and "a photographed method information" (col.16, lines 2-8).

As to claim 18, Teshima discloses the claimed “a radiography apparatus” (col.4, lines 45-50); “a CT apparatus” (col.4, lines 45-50); and “an MR apparatus” (col.4, lines 45-50).

As to claim 19, Teshima discloses the claimed “wherein a user input a password onto an input device on said client terminal, wherein said client terminal transmits said password to said image database server” (col.16, lines 38-48).

As to claim 20, Teshima discloses the claimed “wherein said password comprises an account password which is used in order to pay a predetermined charge for storing and searching of the image data” (col.8, lines 48-col.9, line 38).

As to claim 21, Teshima discloses the claimed “wherein said accompanying information is directly attached to said image data” (col.8, lines 48-col.9, line 38).

As to claim 22, Teshima discloses the claimed “wherein the portion of the accompanying information for the search condition includes a patient specification information, and at least one of a date of photographing, a photographing menu, an input modality and a facility information” (col.8, lines 48-col.9, line 38).

As to claim 23, Teshima discloses the claimed “wherein the accompanying information includes a patient specification information, a data of photographing, a photographing menu and input modality and a facility information” (col.8, lines 48-col.9, line 38).

As to claim 24, Teshima discloses the claimed “wherein the medical image data and the accompanying information are managed as two separate files by using a common management number” (col.5, lines 35-52; col.8, lines 48-col.9, line 38).

As to claim 25, Teshima discloses the claimed wherein after a signal of a data search processing selection is transmitted from the client terminal to the image database server, the image database server transmits a password input screen to the client terminal and displays the screen on the client terminal” (col.8, lines 48-col.9, line 38).

As to claim 26, Teshima discloses the claimed “wherein a user enters parameters into a search field in order to obtain at least one of a date of photographing, a photographing menu, an input modality and a facility information” (col.8, lines 48-col.9, line 38).

Remark

(A). Applicants asserted that Teshima does not explicitly disclose that a medical image is accompanied with data information. In response to the preceding assertions, the examiner kindly submits that the Applicants misread the applied references, and the analysis therefore is inaccurate. However, when read and analyzed in light of the specification, the invention as

claimed does not support Applicants' arguments. Applicants are reminded that 37 CFR 1.111(b) states, a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. It is respectfully submitted that Teshima substantially disclosed the invention as broadly claimed. Teshima, however, discloses a database image server that manages information of medical images data which includes a recording apparatus and communication means that enable data to be transfer over the a network. Such medical information system disclosed by Teshima provides the use of managing patient's consultation record information, wherein the patient's consultation record contains patients' information (col.4, lines 10-20). Teshima states that when a diagnostic ultrasound system, diagnostic X-ray system, or MR system is used to carry out an examination, information of the examination is entered in the patient's consultation information record, wherein such information is stored in the medical image database. Claim 1 of the present invention does not explicitly disclose the use of inputting a desired search condition using a portion of the accompanying information from the client system. Claim 1 of the present invention merely recited the use of having the functional limitation of receiving a set of medical image data transmitted from the client system by inputting a desired search condition, which similarly to the system provided by Teshima (col.13, lines 10-65). Having the functionally of receiving a set of medical image by inputting a desired search condition as claimed does not actual perform the use of receiving information by inputting desired search condition. The intent is there but the invention as claimed does perform such request. In conclusion, the claimed invention does disclose such feature as argued by the applicants. The aforementioned assertion is moot.

(B): Applicants alleged that the examiner has already indicated that Teshima does not disclose a medical image accompanied with data information. In response, the examiner kindly disagrees with the preceding allegation. Teshima substantially disclose the invention as broadly claimed. However, when read and analyzed in light of the specification, the invention as claimed does not support Applicants arguments. Applicants are reminded that 37 CFR 1.111(b) states, a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. It should be noted, the Examiner has never admitted that Teshima does not disclose a medical image accompanied with data information. The examiner has respectfully submitted that Teshima discloses a database image server that manages information of medical images data wherein the database image server contains a recording apparatus and communication means that enable data transfer over the a network. Such medical information system disclosed by Teshima provides the use of managing patient's consultation record information, wherein the patient's consultation record contains patients' information (col.4, lines 10-20). Applicants are reminded that the examiner is entitled to the broadest reasonable interpretation of the claims. The Applicants always have the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater 162 USPQ 541, 550-51 (CCPA 1969). Hence the 35 U.S.C 103 is hereby sustained.

(C). Applicants asserted that Teshima does not appear to perform any kind of search, but merely transmits all available information to an operator. The examiner disagrees with the precedent assertion. The system of Teshima has the functional limitations of searching image data according to a desired search condition, similarly to the claimed limitation that has the functionality of receiving a set of medical image data to the database server transmitted from a client system by inputting a desired search condition. The language of the claim has the intent of receiving medical information by inputting desired search condition. However, claim 1 does not actual disclose the use of receiving medical information by inputting desired search condition.

(D). Applicants alleged that there is no motivation for the combination of sota with Teshima. In response, the examiner disagrees with the preceding allegations. However, Applicants are interpreting the claim very narrow without considering the broad teaching of the references used in the rejection. Applicants are reminded that the test for obviousness is not whether the features of one reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the combination of references makes obvious to one of ordinary skill in the pertinent art. Furthermore, the examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. *In re Nomiya* USPQ 607 (CCPA 1975). Teshima in combination with Sota disclose substantially the invention as broadly claimed. Teshima, however, discloses a database image server that manages information of medical images data which includes a recording apparatus and communication means that enable

data transfer over the a network; and a medical information system that manage patient's consultation record information, wherein the patient's consultation record contains patients information (col.4, lines 10-20). Sota, on the other hand, discloses an internal structure database, wherein the database comprises a database for case retrieval and database for various results such as radiographic image. The database for case retrieval holds a plurality of retrieval information as key information and holds patient number and patient basic information, wherein the key information includes characteristics which are extracted from the doctor's diagnostic of each examined patient. When a doctor retrieve the aforementioned case retrieved, he retrieves the database for case retrieval and displays more detailed information on the clinic terminal (col.15, lines 30-55). Applicants should duly note that there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. *In re Bozek*, 163 USPQ 545 (CCPA) 1969. Hence the 35 U.S.C 103 is hereby sustained.

Dependent claims 2-26 are rejected for fully incorporating the deficiencies of the above-mentioned features of claim 1.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or early communication from the Examiner should be directed to **Jean Corrielus** whose telephone number is (703) 306-3035. The Examiner can normally be reached on the weekdays from 7:00am to 5:30pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, **Kim Vu**, can be reached on (703)305-9343.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C. 20231

or faxed to:

(703) 746-7239, (for formal communications intended for entry)

Or:

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(703)746-7240 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to **Crystal Park II, 2021 Crystal Drive,**
Arlington, VA., Sixth Floor (Receptionist).



Jean M. Corrielus

Patent Examiner

February 4, 2004